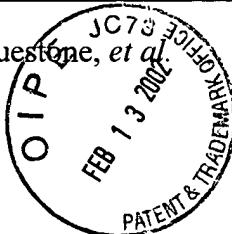


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Jeffrey Bluestone, et al.
Serial No.: 09/835,297
Filed: April 12, 2001



For: *Surface-Bound Antigen Binding Portions of Antibodies That Bind to CTLA-4 and CD28 and Uses Therefor*

Attorney Docket No.: GNN-014CP

Group Art Unit: 1645
Examiner: Not Yet Assigned

Box: Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Certificate of First Class Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box: Missing Parts, Commissioner for Patents, Washington, D.C. 20231 on the date set forth below.

January 29, 2002
Date of Signature and of Mail Deposit

By:


Megan E. Williams, Esq.
Reg. No. 43,270
Attorney for Applicants

AFFIDAVIT BY MEGAN E. WILLIAMS IN SUPPORT OF PETITION

PURSUANT TO 37 C.F.R. §1.47(a)

RECEIVED

FEB 22 2002

OFFICE OF PETITIONS

Sir:

I, Megan E. Williams, declare:

1. I am employed by Lahive & Cockfield, LLP, patent attorneys for Genetics Institute, Inc. I filed the above-identified patent application on behalf of Genetics Institute, Inc.

2. On August 13, 2001 I sent letters enclosing copies of the Application and Declaration, Petition, and Power of Attorney documents to Genetics Institute, the Mayo Clinic, and The University of Illinois. In response to these letters I received documents executed by Mary Collins, Matthew Whitters, David Kranz, and Matthew Griffin. Copies of these documents and letters sent are attached as Appendices A and B.

3. On August 13, 2001, I also sent a copy of the above-identified application entitled "Surface Bound Antigen Binding Portions of Antibodies That Bind to CTLA-4 and CD28 and Uses Therefor" (U.S.S.N. 09/835,297) as filed, along with a Declaration, Petition, and Power of Attorney, plus Assignment documents, for execution to Dr. Bluestone at his business address: UCSF Diabetes Center University of California, San Francisco, 513 Parnassus Avenue, Box 0540-HSW, Room 1114, San Francisco, CA 94143-0540. A copy of that letter is attached as Appendix C.

4. On September 12, 2001, David Epstein of Tolerance Therapeutics, Inc., the entity to which Dr. Bluestone will assign his rights in the invention, contacted me by telephone and asked that I send Dr. Bluestone an electronic copy of the application as filed. On September 17, 2001 I sent such an email to Dr. Bluestone. A copy of that email is attached as Appendix D. In that email I reminded Dr. Bluestone that we were still awaiting the executed Declaration, Petition, and Power of Attorney document so that we could forward it to the USPTO.

5. On November 9, 2001, I sent David Epstein an email (copy attached as Appendix E) to remind him that we need him to return a Power of Attorney document to us for filing with the PCT in the international application related to the above-identified US application. In response to that email, David Epstein replied by email on November 14, 2001 (attached hereto as Appendix F) stating that "we do not intend to sign other

documents, in particular for US applications until we have negotiated and appropriately documented our respective rights to the technology contained therein.” Mr. Epstein returned an executed copy of the PCT Power of Attorney to us as requested.

6. I forwarded a copy of the November 14, 2001 email from David Epstein to Elizabeth Anne Hurley at Genetics Institute, Inc. and obtained authorization to send a second hard copy of the application as filed along with a replacement copy of the Declaration, Petition, and Power of Attorney document to Dr. Bluestone’s attorney, Alice O. Martin, pursuant to MPEP 409.03(d). On December 11, 2001, I sent such a letter to Alice O. Martin via certified mail. A copy of that letter is attached as Appendix G. A second letter was sent to Alice O. Martin via certified mail on December 28, 2001. A copy of that letter is attached as Appendix H. A third letter was sent to Alice O. Martin via certified mail on January 11, 2002. A copy of that letter is attached as Appendix I. The letter of January 11 stated that, in the absence of receiving the executed documents from Dr. Bluestone, a response to the outstanding Notice to File Missing Parts would be filed pursuant to 37 CFR §1.47(a) by January 29, 2002.

7. On January 22 I received a copy of a letter to Beth Ann Hurley of Genetics Institute dated January 16, 2002 from Alice O. Martin, Dr. Bluestone’s attorney. I understand from that letter that Dr. Bluestone has received copies of the documents to sign for the above-identified application, but that he will not sign them until Genetics Institute signs an agreement. A copy of the January 16, 2002 letter from Alice O. Martin to Beth Anne Hurley (with portions of the letter that do not pertain to Dr. Bluestone’s refusal to sign the Declaration and Power of Attorney Documents redacted) is attached as Appendix J.

I have been warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 or the United States Code, and that such willful and false statements may jeopardize the validity of the subject application or any patent resulting therefrom, and declare that all statements made of our own knowledge are true and that all statements made on information and belief are believed to be true.

Date: January 29, 2002

Signed: Megan E. Williams

Megan E. Williams

RECEIVED

FEB 2 2 2002

OFFICE OF PETITIONS

LAHIVE
&
COCKFIELD
L L P

COUNSELLORS AT LAW
28 STATE STREET
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ANN LAMPORT HAMMITTE
ELIZABETH A. HANLEY
AMY BAKER MANDRAGOURAS
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PETER S. STECHER
THEODORE R. WEST
SHAYNE Y. HUFF, Ph.D.

TECHNICAL SPECIALISTS
MARIA LACCO TRIPE ZACHARAKIS, Ph.D.**
CYNTHIA M. SORROS
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ERIC F. WAGNER, Ph.D.
SHAHID HASAN, Ph.D.
ASHITA DOSHI, Ph.D.
JACOB G. WEINTRAUB

* Admitted in NY only
** Passed the Patent Bar Examination



August 13, 2001

Beth Anne Hurley, Esq.
Patent Counsel
Genetics Institute, Inc.
87 Cambridge Park Drive
Cambridge, MA 02140

Re: U.S. Patent Application Serial No. 09/835,297
Title: "Surface Bound Antigen Binding Portions of Antibodies
that Bind to CTLA-4 and CD28 and Uses Therefor"
Filing Date: April 12, 2001
Inventors: Jeffrey Bluestone *et al.*
Your Reference No. GI-5423 Our Reference No. GNN-014CP

Dear Beth Anne:

We have received a "Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted" from the U.S. Patent and Trademark Office for the above-referenced application, a copy of which is enclosed for your records.

Further enclosed is a copy of the above-identified application and a Declaration, Petition, and Power of Attorney. The application should be read thoroughly in order to verify that it completely and accurately describes the invention and the best known mode for practicing the invention. After reviewing the application, Mary Collins and Matthew J. Whitters should carefully read, date and sign in blue ink, if appropriate, the attached Declaration.

Finally, enclosed is an Assignment document in which Mary Collins and Matthew J. Whitters assign their rights in the invention to Genetics Institute, Inc. The Assignment should be read carefully, signed in the presence of a Notary Public, and returned to me.

We would like to file these documents with the Patent Office on August 29, 2001, if possible. For your convenience, we have enclosed a preaddressed overnight envelope for returning the documents to us.

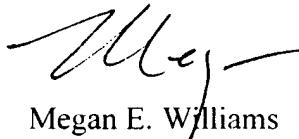
APP. B

Beth Anne Hurley
August 13, 2001
Page -2-

We have also received the Official Filing Receipt from the U.S. Patent and Trademark Office confirming that the above-referenced application was filed on April 12, 2001 and assigned Serial No. 09/835,297. A copy is enclosed for your files. You will note that a correction is needed in Dr. Bluestone's residence address. Any corrections needed will be made upon our receipt of a Corrected Filing Receipt after we file the response to the Notice to File Missing Parts.

If you have any questions, please do not hesitate to call.

Very truly yours,



Megan E. Williams

MEW/hfm

Enclosures

cc: Kay E. Brady (w/ encls.)

Amy E. Mandragouras, Esq. (w/o encls.)

Jennifer K. Rosenfield (w/o encls.)

LAHIVE
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COCKFIELD

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SHAHID HASAN, Ph.D.
ASHITA DOSHI, Ph.D.
JACOB G. WEINTRAUB

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** Passed the Patent Bar Examination



August 13, 2001

Susan L. Stoddard, Ph.D.
Senior Licensing Professional
Office of Technology Commercialization
Mayo Medical Ventures/Mayo Clinic
200 First Street SW
Rochester, MN 55905

Re: U.S. Patent Application Serial No. 09/835,297
Title: "Surface Bound Antigen Binding Portions of Antibodies
that Bind to CTLA-4 and CD28 and Uses Therefor"
Filing Date: April 12, 2001
Inventors: Jeffrey Bluestone *et al.*
Your Reference No. (Please provide) Our Reference No. GNN-014CP

Dear Susan:

We have received a "Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted" from the U.S. Patent and Trademark Office for the above-referenced application, a copy of which is enclosed for your records.

Further enclosed is a copy of the above-identified application and a Declaration, Petition, and Power of Attorney. The application should be read thoroughly in order to verify that it completely and accurately describes the invention and the best known mode for practicing the invention. After reviewing the application, Dr. Griffin should carefully read, date and sign in **blue ink**, if appropriate, the attached Declaration.

Finally, enclosed is an Assignment document in which Dr. Griffin assigns his rights in the invention to Mayo Foundation for Medical Education and Research. The Assignment should be read carefully, signed in the presence of a Notary Public, and returned to me.

We would like to file these documents with the Patent Office on August 29, 2001, if possible. For your convenience, we have enclosed a preaddressed overnight envelope for returning the documents to us.

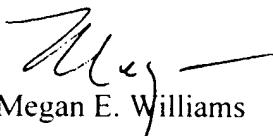
APP. B

Susan L. Stoddard, Ph.D.
August 13, 2001
Page -2-

We have also received the Official Filing Receipt from the U.S. Patent and Trademark Office confirming that the above-referenced application was filed on April 12, 2001 and assigned Serial No. 09/835,297. A copy is enclosed for your files. You will note that a correction is needed in Dr. Bluestone's residence address. Any corrections needed will be made upon our receipt of a Corrected Filing Receipt after we file the response to the Notice to File Missing Parts.

If you have any questions, please do not hesitate to call.

Very truly yours,


Megan E. Williams

MEW/hfm
Enclosures
cc: Beth Anne Hurley, Esq. (w/encls.)
Kay E. Brady (w/encls.)
Amy E. Mandragouras, Esq. (w/o encls.)
Jennifer K. Rosenfield (w/o encls.)

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OF COUNSEL
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SHAHID HASAN, Ph.D.
ASHITA DOSHI, Ph.D.
JACOB G. WEINTRAUB

* Admitted in NY only
** Passed the Patent Bar Examination

OFFICE OF THE ATTORNEY GENERAL
August 13, 2001

Michael Fritz
Interim Director
Office of Technology Management
404 Swanlund Administration Building, MC 304
601 East John Street
Champaign, IL 61820

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Re: U.S. Patent Application Serial No. 09/835,297
Title: *“Surface Bound Antigen Binding Portions of Antibodies that Bind to CTLA-4 and CD28 and Uses Therefor”*
Filing Date: April 12, 2001
Inventors: Jeffrey Bluestone *et al.*
Your Reference No. (Please provide) Our Reference No.

Dear Mr. Fritz:

We have received a "Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted" from the U.S. Patent and Trademark Office for the above-referenced application, a copy of which is enclosed for your records.

Further enclosed is a copy of the above-identified application and a Declaration, Petition, and Power of Attorney. The application should be read thoroughly in order to verify that it completely and accurately describes the invention and the best known mode for practicing the invention. After reviewing the application, Professor Kranz should carefully read, date and sign in **blue ink**, if appropriate, the attached Declaration.

Finally, enclosed is an Assignment document in which Dr. Kranz assigns his rights in the invention to The Board of Trustees of the University of Illinois. The Assignment should be read carefully, signed in the presence of a Notary Public, and returned to me.

We would like to file these documents with the Patent Office on August 29, 2001, if possible. For your convenience, we have enclosed a preaddressed overnight envelope for returning the documents to us.

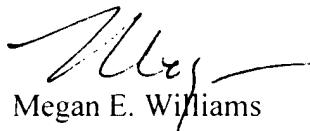
App. B.

Michael Fritz
August 13, 2001
Page -2-

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If you have any questions, please do not hesitate to call.

Very truly yours,



Megan E. Williams

MEW/hfm
Enclosures

cc: Beth Anne Hurley, Esq. (w/encls.)
Kay E. Brady (w/encls.)
Amy E. Mandragouras, Esq. (w/o encls.)
Jennifer K. Rosenfield (w/o encls.)

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TECHNICAL SPECIALISTS
MARIA LACCOTRIPE ZACHARAKIS, Ph.D.^{**}
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ASHITA DOSHI, Ph.D.
JACOB G. WEINTRAUB

^{*} Admitted in NY only
^{**} Passed the Patent Bar Examination

PE
FEB 13 2002
PATENT & TRADEMARK OFFICE
August 15, 2001

Dr. Jeffrey A. Bluestone
UCSF Diabetes Center
University of California, San Francisco
513 Parnassus Avenue
Box 0540-HSW Room 1114
San Francisco, CA 94143-0540

Re: U.S. Patent Application Serial No. 09/835,297
Title: "Surface Bound Antigen Binding Portions of Antibodies
that Bind to CTLA-4 and CD28 and Uses Therefor"
Filing Date: April 12, 2001
Inventors: Jeffrey Bluestone *et al.*
Our Reference No. GNN-014CP

Dear Dr. Bluestone:

We have received a "Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted" from the U.S. Patent and Trademark Office for the above-referenced application, a copy of which is enclosed for your records.

Further enclosed is a copy of the above-identified application and a Declaration, Petition, and Power of Attorney. The application should be read thoroughly in order to verify that it completely and accurately describes the invention and the best known mode for practicing the invention. After reviewing the application, please carefully read, date and sign in blue ink, if appropriate, the attached Declaration.

Finally, enclosed is an Assignment document which assigns your rights in the invention to Tolerance Therapeutics, Inc. We also enclose a duplicate copy of an Assignment document we previously sent to you in connection with the Provisional Application, to which this application claims priority. The Assignments should be read carefully, signed in the presence of a Notary Public, and returned to me.

We would like to file these documents with the Patent Office on August 29, 2001, if possible. For your convenience, we have enclosed a preaddressed overnight envelope for returning the documents to us.

APP. C

Dr. Jeffrey A. Bluestone

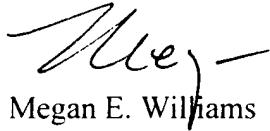
August 13, 2001

Page -2-

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If you have any questions, please do not hesitate to call.

Very truly yours,



Megan E. Williams

MEW/hfm

Enclosures

cc: Beth Anne Hurley, Esq. (w/encls.)

Kay E. Brady (w/encls.)

David Epstein, Tolerance Therapeutics, Inc. (w/encls.)

Amy E. Mandragouras, Esq. (w/o encls.)

Jennifer K. Rosenfield (w/o encls.)

Megan E. Williams - GNN-014CP

From: Megan E. Williams
To: jbluest@diabetes.ucsf.edu
Date: 9/17/01 9:22 AM
Subject: GNN-014CP
CC: amartin@btlaw.com; Amy Mandragouras; Beth Anne Hurley; djepstein@bigfoot.com

Attached please find an electronic copy of the above-referenced patent application as filed. Pursuant to our previous letter we are awaiting the executed Declaration, Petition, and Power of Attorney Document. If possible, we would like to file the executed DPOA with the USPTO by September 29, 2001 to avoid further extensions of time and the accompanying fees. The executed Assignment Documents can be sent to us at any time. Thank you for your time.

Sincerely,

Megan Williams

Megan E. Williams
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109
T: (617) 227-7400
F: (617) 742-4214
mew@lahive.com
website: www.lahive.com

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APP. D

Megan E. Williams - GNN-014CPPC

From: Megan E. Williams
To: djepstein@bigfoot.com
Date: 11/9/01 5:59 PM
Subject: GNN-014CPPC
CC: Amy Mandragouras



Dear Mr. Epstein:

I am writing to follow up on the Power of Attorney document we sent to you for execution on behalf of Tolerance Therapeutics. We are filing a Chapter II demand for the above-referenced international application on Monday the 12th, the deadline for filing the Demand. We have received executed Power of Attorney documents on behalf of GI and the Mayo Clinic and we understand that the document from the University of Illinois is being sent to us now. We are concerned that the Demand may not be accepted without the Power of Attorney document signed on behalf of all the applicants, including Tolerance.

Please send the executed document to us by fax at 617-742-4214 as soon as possible. The Demand must arrive by fax in Europe by 6:00 PM our time on Monday. Thank you for your help.

Please call if you have any questions.

Sincerely,
Megan Williams

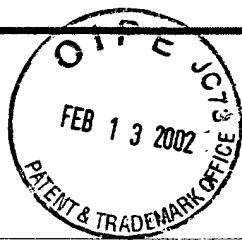
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mew@lahive.com
website: www.lahive.com

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FEB 22 2002
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Megan E. Williams - Tolerance

From: "Epstein, David" <depstein@spss.com>
To: ""mew@lahive.com"" <mew@lahive.com>
Date: 11/14/01 10:33 AM
Subject: Tolerance
CC: ""amartin@btlaw.com"" <amartin@btlaw.com>



Please email a copy of the Power of Attorney for PCT rights to this address, or fax to 312.264.3992.

On advise of counsel, I am prepared to sign it immediately. Please be advised that we do not intend to sign other documents, in particular for US applications until we have negotiated and appropriately documented our respective rights to the technology contained therein.

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FEB 22 2002
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&
COCKFIELD
L L P

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JOHN S. CURRAN
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RICA NAND
MICHAEL PHILLIPS
LISA M. DIROCCO
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PATENT AGENTS
THEODORE R. WEST
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DANIEL B. KO

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EUIHOON LEE
JENNIFER K. ROSENFIELD
ALLAN TAMESHTIT, Ph.D
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CRISTIN E. HOWLEY, Ph.D.
VINCENT P. LOCCISANO
MERIDETH C. ARNOLD

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December 11, 2001

Dr. Alice O. Martin
Barnes & Thornburg
2600 Chase Plaza
10 South La Salle Street
Chicago, Illinois 60603

VIA CERTIFIED MAIL

Re: U.S. Patent Application Serial No. 09/835,297
Title: "Surface Bound Antigen Binding Portions of Antibodies
that Bind to CTLA-4 and CD28 and Uses Therefor"
Filing Date: April 12, 2001
Inventors: Jeffrey Bluestone *et al.*
Our Reference No. GNN-014CP

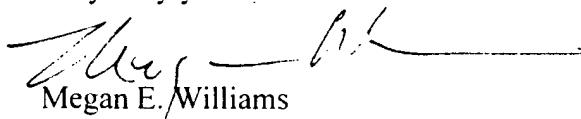
Dear Dr. Martin:

Enclosed is a copy of the above-identified application and a Declaration, Petition, and Power of Attorney. Please have Dr. Bluestone read the application thoroughly in order to verify that it completely and accurately describes the invention and the best known mode for practicing the invention. After reviewing the application, please have Dr. Bluestone carefully read, date and sign in blue ink, if appropriate, the attached Declaration.

We would like to file these documents with the Patent Office as soon as possible, by January 29, 2002, at the latest. For your convenience, we have enclosed a preaddressed overnight envelope for returning the documents to us.

If you have any questions, please do not hesitate to call.

Very truly yours,


Megan E. Williams

MEW/hfm
Enclosures

cc: Beth Anne Hurley, Esq. (w/encls.)
Kay E. Brady (w/encls.)
Amy E. Mandragouras, Esq. (w/o encls.)
Shayne Y. Huff, Ph.D. (w/o encls.)

APP, G

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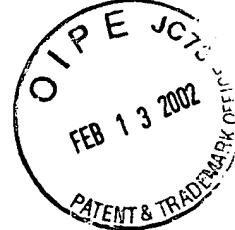
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December 28, 2001



Dr. Alice O. Martin
Barnes & Thornburg
2600 Chase Plaza
10 South La Salle Street
Chicago, Illinois 60603

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Inventors: Jeffrey Bluestone *et al.*
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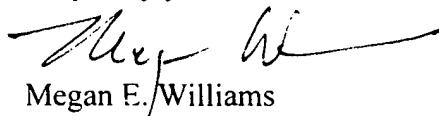
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Megan E. Williams

MEW/hfm

Enclosures

cc: Beth Anne Hurley, Esq. (w/o encls.)

Kay E. Brady (w/o encls.)

Amy E. Mandragouras, Esq. (w/o encls.)

Shayne Y. Huff, Ph.D. (w/o encls.) APP. H.

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&
COCKFIELD

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|---------------------------------|--------------------------|
| JOHN A. LAHIVE, JR. (1928-1997) | CYNTHIA L. KANN |
| THOMAS V. SMURZYNSKI | MEGAN E. WILLIAMS, Ph.D. |
| RALPH A. LOREN | RICHA NAND |
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| AMY BAKER MANDRAGOURAS | SENIOR COUNSEL |
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| PETER C. LAURO | SIBLEY P. REPPERT |
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| DEBRA J. MILASINCIC, Ph.D. | THEODORE R. WEST |
| DAVID J. RIKKERS | SHAYNE Y. HUFF, Ph.D. |
| DAVID R. BURNS | DANIEL B. KO |
| JOHN S. CURRAN | |
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January 11, 2002



Dr. Alice O. Martin
Barnes & Thornburg
2600 Chase Plaza
10 South La Salle Street
Chicago, Illinois 60603

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Inventors: Jeffrey Bluestone *et al.*
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Please note that, in the absence of receiving these executed documents, we plan to file a response to the outstanding Notice to File Missing Parts pursuant to 37 CFR §1.47 by January 29, 2002. We understand that David Epstein contacted Bethanne Hurley to address what he considered to be unresolved issues regarding this case. We do not believe there to be any unresolved issues in this case. However, if you believe such issues exist, please notify us in writing identifying the specific issues involved and your proposed resolution.

APP. T

Dr. Alice O. Martin
January 11, 2002
Page 2.

If you have any questions, please do not hesitate to call.

Very truly yours,


Megan E. Williams

MEW/hfm

Enclosures

cc: Jeffrey A. Bluestone, Ph.D. (w/encls.)
David Epstein (w/encls.)
M. Andrea Ryan, Esq. (w/o encls.)
Bethanne Hurley, Esq. (w/o encls.)
Kay E. Brady (w/o encls.)
Amy E. Mandragouras, Esq. (w/o encls.)
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www.bclaw.com

Certified Article Number:

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SENDERS RECORD

VIA CERTIFIED MAIL
Beth Ann Hurley Esq.
Genetics Institute
87 Cambridge Park Drive
Cambridge, MA 02140

January 16, 2002



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Re: Title: SURFACE-BOUND ANTIGEN BINDING
PORTIONS OF ANTIBODIES THAT BIND TO CTLA-4
and CD28 AND USES THEREFOR
Inventors: Jeffrey Bluestone, *et. al.*
Application Ser. No: U.S. Ser. No. 09/835,297, PCT Ser. No. PCT/US01/12275
Your Ref. No.: GNN-014CP, GNN-014CPPC
Our Ref. No. 28480/91234

Dear Ms. Hurley:

APP. J

Beth Ann Hurley
Genetics Institute
January 14, 2002
Page 2

Dr. Bluestone has received documents to sign for a U.S. patent application you filed, but would like to have the enclosed agreement signed before he executes the declaration of inventorship.

Please contact me with any questions or comments.

Very truly yours,

BARNES & THORNBURG

Alice O. Martin

AOM:amt
Enclosure
cc: David Epstein (via e-mail and regular mail)
Jeffrey A. Bluestone, M.D. (via e-mail and regular mail)

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